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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/618,918	07/14/2003	Paul A. Hungerford	11336/539 (P03116US)	7980

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BRINKS HOFER GILSON & LIONE
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SUITE 1600
INDIANAPOLIS, IN 46204

EXAMINER

BRINEY III, WALTER F

ART UNIT	PAPER NUMBER
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2615

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/24/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/618,918	Applicant(s) HUNGERFORD, PAUL A.	
	Examiner Walter F. Briney III	Art Unit 2615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 November 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-12 and 24 is/are allowed.
- 6) ☒ Claim(s) 13-23 and 25-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 06 November 2006 has been entered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. **Claims 13-20, 25-28, 31 and 32 are rejected under 35 U.S.C. 102(e) as being anticipated by Novitschitsch (US Patent 6,457,547).**

Claim 13 is limited to "a speaker housing." Novitschitsch anticipates the "main housing," the "mounting lip" and the "support member" for the same reasons presented in the Non-Final Office Action filed 23 March 2006, and incorporated herein by reference. It is noted that the amendment to the "support member" limitation is merely formal. Moreover, the "dual sided connector" limitation is currently amended. In

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particular, the claim recites "a dual sided connector formed on an outside surface of the main housing wall with inputs on its right and left sides." The applicant alleges on page 13 of the current response that the term "sided" carries specific structural limitations, e.g., "having sides often of a specified number or kind." The applicant defines side as "the right or left part of the wall or trunk of the body." Explicating the term "side" and "sided" in this way does not appear to differentiate the claim from the examiner's interpretation since there is no language in the claim to fix the left and right side of the connector. Looking at the cross section of figure 2, the projecting side of connector 8 is on the left and corresponds to a "left side" while the oppositely-facing mounted side is on the right and corresponds to a "right side." In this interpretation, the centerline of connector 8 is drawn into the page subdividing the connector's illustrated mass into two equal halves. In contrast, looking at the cross section at a different angle might reverse which side is right or left, or render both sides as a top, bottom, front or backside. The point is that the use of the terms "right" and "left" in the claim are totally subjective and only offer the distinction that the two sides are opposite each other. In any case, both the internal and external connection sides are inherently usable as inputs. Therefore, Novitschitsch anticipates all limitations of the claim.

Claims 14-20 are limited to "the speaker housing of claim 13," as covered by Novitschitsch, and are rejected for the same reasons presented above regarding claim 13 and the respective reasons presented in the Non-Final Office Action filed 23 March 2006. Regarding claim 20, it is noted that the first connection member (i.e. plug connector) and second connection member (i.e. terminals inside wall 6) of claim 20 are

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for the right and left side inputs of connector 8. Therefore, Novitschitsch anticipates all limitations of the claim.

Claims 25-28 and 31 are rejected for the same reasons presented in the Non-Final Office Action filed 23 March 2006.

Claim 32 is rejected for the same reasons presented in the Non-Final Office Action filed 23 March 2006 and for the reasons presented above apropos claim 13.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 21-23, 29 and 30** are rejected under 35 U.S.C. 103(a) as being unpatentable over Novitschitsch in view of Ikeyama (US Patent 6,922,477).

Claims 21-23, 29 and 30 are rejected for the same reasons presented in the Office Action filed 23 March 2006.

Allowable Subject Matter

The following is a statement of reasons for the indication of allowable subject matter:

3. **Claims 1-12 and 24** are allowed.

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Claim 1 is limited to "a speaker housing." Although the "main housing wall," the "mounting lip," the "support member," the "motor assembly" and the previously recited "dual sided connector" were shown to be anticipated by Novitschitsch in the Non-Final Office Action filed 23 March 2006, the currently amended claim distinguishes over the cited prior art. In particular, the mere presence of a dual sided connector on the outside surface of the main housing wall is not novel, yet the presence of oppositely facing side inputs located on the outside surface is neither disclosed nor made obvious by the cited prior art. Instead, Novitschitsch provides a dual sided connector with oppositely facing side inputs where one input is on an outside surface while the other is on an inside surface. Thus, claim is allowable over the cited prior art.

Claims 2-11 depend on claim 1, and are allowable over the cited prior art for at least the same reasons.

Claims 12 and 24 have been rewritten in independent form including all limitations of their parent claim and any interceding claims, and thus, are allowable over the cited prior art.

Response to Arguments

Applicant's arguments filed 06 November 2006 have been fully considered but they are not persuasive.

With respect to claims 1-11, 13-23, 30 and 32 the applicant's allegations were considered and shown to be unpersuasive in the preceding section entitled *Claim Rejections - 35 USC § 102*.

With respect to claims 9-11, 21-23, 29 and 30 the applicant alleges that Ikeyama fails to teach a dual sided connector, however, Novitschitsch anticipates this limitation so these allegations are moot.

With respect to claims 25-29 and 31, the applicant alleges on pages 10-12 that the examiner erred in not interpreting these claims pursuant to 35 U.S.C. § 112, sixth paragraph. In particular, the applicant alleges that the “means...for providing a dual sided electrical connection site on the speaker means” of claims 25-29 and the “means for providing a dual sided connection” of claim 31 warrant interpretation according to the sixth paragraph of 35 U.S.C. § 112. However, means-plus-function language cannot imply specific structure on their own or be modified by structural limitations. See *Envirco Corp. v. Clestra Cleanroom, Inc.*, 209 F.3d 1360, 54 USPQ2d 1449 (Fed. Cir. 2000) (holding “second baffle means” does not invoke 35 U.S.C. 112, sixth paragraph, because the word “baffle” itself imparts structure). In the instant case, the limitation “dual sided electrical connection” imparts specific structure, to wit, an electrical connection and a two-sided connection. In addition, the connection is made on “an outside surface.” Moreover, claim 31 recites that the dual sided connection must be able to connect with a “clip,” requiring more specific structure. Therefore, the rejections of claims 25-29 and 31 are maintained.

Conclusion


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Walter F. Briney III whose telephone number is 571-272-7513. The examiner can normally be reached on M-F 8am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on 571-272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

wfb
1/18/07



SINH TRAN
SUPERVISORY PATENT EXAMINER